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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Molly F. Kulesz-Martin

Art Unit: 1642

Serial No: 08/811,361

Filed: March 4, 1997

Examiner: G. Bansal

For: p53as PROTEIN AND ANTIBODY THEREFOR

I certify that this **RESPONSE** is being deposited on **June 17, 1998** with the U.S. Postal Service as first class mail addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

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RESPONSE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Official Action of March 18, 1998.

The Examiner is respectfully requested to reconsider the rejection and allow pending Claim 11.

With respect to the 35 USC 112 rejection, it is pointed out that the Examiner's statement that the peptide could be any of a "high number of sequences from two amino acids long to twenty amino acids long" is not correct.

The claim requires that the claimed peptide be the "carboxy terminal region." That means that there could only be a possible 19 peptides of length 2-20 in a given p53as. The claim does not permit mixing of the amino acids nor taking of any

intermediate sequence. Further, the peptide must contain a unique region not present in carboxy terminal region of p53. This can be seen by simple comparison.

Assuming that the sequences are identical in the p53as and the p53as peptide, probabilities are very high that the unique nature of the sequence as an epitope will be retained in the peptide.

There is no ambiguity.

With respect to the rejection of Claim 11 under 35 USC 102(b) in view of Arai et al., the Examiner is respectfully requested to look at Arai et al. without the benefit of the teachings of the present application.

Arai et al. discloses a sequence which does not function as a p53as for reasons previously discussed and which speculates upon a protein sequence based upon a nucleic acid sequence. Even assuming arguendo that the Arai et al. proposed non-functional protein sequence is accurate, it is 393 amino acids long.

In the absence of the teachings of the present application, there is no reason to extract any particular peptide from the Arai et al. non-functional sequence, terminal or otherwise, even though the technology is available to extract a given peptide. For peptides of lengths 2-20 (lengths previously assumed by the Examiner) the number of possible peptides is 7670. There is no suggestion of why a sequence, similar to the presently claimed peptide, should be selected from the Arai et al. 7670 possible peptides. The use of the present disclosure for the purpose of selecting one of the 7670 possible peptides of Arai et al. is impermissible hindsight. The 7670 possible peptides of Arai et

al. is in stark contrast with the minimal numbers of peptides for a given p53as as presently claimed and as previously discussed.

Arai et al. clearly does not anticipate or suggest the presently pending claim.

The Examiner is courteously requested to grant the claim.

Respectfully submitted,

Dated: June 17, 1998

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